

NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION

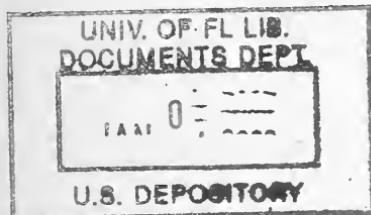
FOR THE

LUMBER AND TIMBER
PRODUCTS INDUSTRY

AS APPROVED ON MARCH 23, 1934

BY

PRESIDENT ROOSEVELT



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Approved Code No. 9—Amendment No. 5

AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

LUMBER AND TIMBER PRODUCTS INDUSTRY

As Approved on March 23, 1934

BY

PRESIDENT ROOSEVELT

EXECUTIVE ORDER

**AMENDMENTS TO THE CODE OF FAIR COMPETITION FOR THE LUMBER
AND TIMBER PRODUCTS INDUSTRY**

An application having been made by the Lumber Code Authority pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for amendment of the Code of Fair Competition for the Lumber and Timber Products Industries, as heretofore approved by me, and for the modification of my approval of said Code of Fair Competition accordingly, and hearings having been held thereon, and the Administrator having rendered his report recommending the granting of such application, which carries out the forest conservation provisions of Article X of said Code:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report of the Administrator recommending the granting of the aforesaid application, and do order that the Code of Fair Competition for the Lumber and Timber Products Industries, as approved by me on August 19, 1933, be amended in accordance with the foregoing.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
March 23, 1934.

LETTER OF TRANSMITTAL

The PRESIDENT,
The White House.

SIR: Under the Code of Fair Competition for the Lumber and Timber Products Industries, as approved by you on August 19, 1933, the Lumber Code Authority has submitted Amendments Nos. 47 and 48 which are included and attached.

This is a report of the hearing on the foregoing Amendments conducted in Washington on February 26, 1934, in accordance with the provisions of the National Industrial Recovery Act.

These Amendments recognize the obligation undertaken by the applicant industries pursuant to Article X of the Code which reads as follows:

"ARTICLE X. Conservation and Sustained Production of Forest Resources.—The applicant industries undertake, in cooperation with public and other agencies, to carry out such practicable measures as may be necessary for the declared purposes of this Code in respect of conservation and sustained production of forest resources. The applicant industries shall forthwith request a conference with the Secretary of Agriculture and such State and other public and other agencies as he may designate. Said conference shall be requested to make to the Secretary of Agriculture recommendations of public measures with the request that he transmit them, with his recommendations, to the President; and to make recommendations for industrial action to the Authority, which shall promptly take such action, and shall submit to the President such supplements to this Code, as it determines to be necessary and feasible to give effect to said declared purposes. Such supplements shall provide for the initiation and administration of said measures necessary for the conservation and sustained production of forest resources, by the industries within each Division, in cooperation with the appropriate State and Federal authorities. To the extent that said conference may determine that said measures require the cooperation of federal, state, or other public agencies, said measures may to that extent be made contingent upon such cooperation of public agencies."

From the testimony taken at the hearing, it is apparent that these Amendments represent a tremendous step toward the establishment of effective mechanisms necessary to carrying out a successful program of conservation and sustained production in one of the Nation's most important natural resources. As you know so well, the means of embarking on such a program has long been sought in this Country, but the divergent interests involved, while seeking a common goal, defeated each other in its attainment by failing to reconcile their opinions in the matter of detail. In the light of this knowledge, the unanimity of opinion supporting these proposals revealed at the hearing can only be regarded as promising much in

future achievement. That this reconciliation has been possible is undoubtedly due more to your interest and leadership than to any other force.

The Deputy Administrator in his final report to me on said Amendments to said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) The Amendments to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restrictions of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the aforesaid Amendments on behalf of the industry as a whole.

(d) The Amendments and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The Amendments and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Amendments.

From evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards, it is believed that these Amendments as now proposed and revised are satisfactory to this industry, labor, public and this Administration. It is recommended, therefore, that these Amendments, as herewith submitted, be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 21, 1934.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE LUMBER AND TIMBER PRODUCTS INDUSTRY

Add the following new "Schedule C" to the Code of Fair Competition for the Lumber and Timber Products Industries:

SCHEDULE C—FOREST CONSERVATION CODE

The following supplements to Article X provide for the initiation and administration of measures necessary for the conservation and sustained production of forest resources by persons within each Division and Subdivision in cooperation with the appropriate State and Federal Authorities, it being recognized that the extent to which these undertakings by the lumber and timber products industries are capable of successful accomplishment is dependent upon the extent and character of public cooperation in each state.

SECTION 1. Each Division and each Subdivision having jurisdiction over forest utilization operations shall establish or designate an agency or agencies to formulate and from time to time to revise rules of forest practice, and to exercise general supervision over the application and enforcement thereof in the operations of the persons of the respective Divisions and Subdivisions. Such agencies shall have as non-voting, advisory members one representative of each of the State and Federal organizations which have definite responsibility under State and Federal laws for forestry or forest protection practice within the several Divisions and Subdivisions. Each Division and each Subdivision shall provide such technical and other qualified personnel as may be required to furnish necessary information to said agencies and persons, to inspect the forest operations of said persons, to enforce such rules of forest practice, and otherwise to carry out the purposes of this Schedule, under the said general supervision of said agencies. On or before April 15, 1934, each such agency shall formulate such rules of forest practice and shall submit them through the appropriate channels to the Authority for its approval, provided, however, that prior to or at the time of the submission of such Rules of Forest Practice to the Authority for its approval, such agency shall publish such rules in its Division or Subdivision and shall take such steps as are reasonably calculated to notify all affected parties of the provisions thereof and that objections to or criticism of such rules may be filed with it or the Authority within fifteen days after the date of publication. After such approval the Authority shall publish separately for each Division and Subdivision, and shall submit to the Administrator together with a summary of objections filed, approved forest practice rules, which, on and after June 1, 1934, unless prior to that date such rules shall have been suspended or disapproved by the Administrator, shall be obligatory for all persons subject to the jurisdiction of the said

Divisions and Subdivisions, respectively. Upon application by a Division or Subdivision, or upon its own initiative to secure compliance with this Schedule and equal application thereof without and between the several Divisions and Subdivisions, the Authority may amend such rules of forest practice; such amendments shall be published by the Authority, together with a notice that objections to or criticisms of such amendments may be filed with the Authority within fifteen (15) days after the publication thereof and shall be submitted to the Administrator, together with a summary of the objections and criticisms filed with it, and shall be effective thirty days after the date of such publication, unless prior to that date such amendments shall have been suspended or disapproved by the Administrator.

SECTION 2. Said rules of forest practice, to insure the conservation and sustained production of forest resources, shall include practicable measures to be taken by the operators to safeguard timber and young growing stock from injury by fire and other destructive forces, to prevent damage to young trees during logging operations, to provide for restocking the land after logging if sufficient advance growth is not already present, and where feasible, to leave some portion of merchantable timber (usually the less mature trees) as a basis for growth and the next timber crop. Said rules of forest practice shall be adequate to secure the purposes of this Schedule, and in a practical way in accordance with conditions existing in the respective Divisions and Subdivisions shall secure application of the following principles:

(a) Fire protection during and immediately following logging is an indispensable condition for forest regrowth. Responsibility for adequate provision for control of fires during or immediately following logging operations rests upon the individual operator if he is in any way the cause of such fires. Each operator shall be definitely responsible for taking practical measures of fire control. Such measures shall, to the extent necessary to provide adequate protection, include slash and snag disposal, rules as to use of fire by employees including smoking in the woods, equipment of logging locomotives and engines with adequate devices for preventing fires, having available upon call crews properly equipped to fight fires, closing operations during exceptionally dry periods, and other precautionary measures. Where a general fire protection system is in effect, each operator shall correlate his protection system with the general system, but such general system shall not replace the protection system of such operator, nor shall it relieve him of responsibility for protecting his own property to the extent that he has created the hazard. He shall not be considered to be responsible for fire caused by public carelessness or by inadequate public protection.

(b) To the end that protection against fire and other destructive forces may be rapidly extended to all forest areas that require protection, said agencies shall endeavor to secure action on the part of all operating forest land owners in the direction of cooperating with public organizations in systematic fire prevention and suppression and such protective action as may be practicable for protection against insects and diseases. Such agencies shall also seek to secure such cooperation on the part of non-operating forest land owners.

(c) As much as practicable of the advance growing stock upon the land in the form of young trees of valuable species below merchantable size shall be preserved during logging operations and left without injury for future growth. Each operator shall require his woods employees to exercise conscious care to reduce damage to advance growth to the minimum practicable.

(d) To secure natural reproduction, which will usually be obtained where partial cutting is practiced, there shall be left on the logged areas, where economic and other conditions permit, a sufficient number of trees of desirable species to yield a commercial cut at reasonable intervals. Under certain conditions, instead of partial cutting, the leaving of seed trees or groups of seed trees on or adjacent to logged areas may be sufficient to insure the required re-growth on the logged areas. If there is an insufficient reserve stand, or if conditions are otherwise adverse and the prospects of securing natural reseeding are uncertain, planting may be desirable.

(e) To the extent practicable, partial cutting or selective logging shall be the general standard for local measures of forest practice. Said agencies shall without delay, making use of existing information, undertake to determine by regions or by forest types, the extent to which merchantable sizes of trees may wisely be left as part of the forest growing stock. Upon satisfactory determination of such conditions said agencies shall promptly establish standards of practice looking to the attainment of this objective.

In certain regions or forest types, and under certain conditions which do not justify partial cutting or selective logging, other methods shall be allowed.

These rules of forest practice shall also apply to persons whose operations are in timber held under "lease" or "timber cutting rights" existing prior to the date of the President's approval of this Schedule, provided that due consideration shall be given to the ownership equities involved in order to avoid causing such persons unreasonable hardship by requiring the leaving of trees of merchantable sizes.

(f) In order to provide flexibility, each operator shall be encouraged to communicate to his agency the methods which he proposes as best suited in his individual operation to achieve the declared objectives of conservation and sustained production of forest resources, and if such proposed methods are determined by said agency to equal or excel the regional or type standard methods, they shall be approved in lieu thereof. This in effect permits modification of regional or type standards upon submission and approval of specific individual management plans.

(g) Said agencies shall, each within its own jurisdiction, investigate the feasibility of and shall actively encourage the application of sustained yield forest management wherever feasible. Sustained yield forest management is defined as management of specific forest lands under single ownership or cooperative control within an economic unit, under definite management plan which limits timber cutting to the capacity of such forest lands under existing methods of management, as determined from existing growing stock and growth, to provide without interruption or substantial reduction raw material for industry and community support.

(h) Schedule C and the rules of forest practice and any other rules and regulations adopted pursuant thereto, being adopted in order to give effect in the public interest to the declared purposes of Article X may be enforced only by the United States through its appropriate enforcement agencies or officers. Nothing contained in this Schedule, or in the rules of forest practice or in any other rule or regulation adopted pursuant thereto, shall be construed to enlarge, increase, change or affect the legal duty, liability or responsibility of any person subject to the jurisdiction of this code to any other person, firm or corporation, whether or not the latter is subject to the jurisdiction of this Code, or to give to any such person, firm or corporation any right of action against any person subject to the jurisdiction of this code which would not have existed if this Schedule had not been adopted.

Amend Article VIII (k) by adding the following new paragraph at the end thereof:

“Pursuant to the foregoing each eligible person who makes application to be recognized as securing his raw material supply from forest lands under his ownership or control which are managed on a sustained yield basis, and who secures from his Division or Sub-division agency established or designated as provided in Section 1 of Schedule C a certificate showing that he is in good faith conducting his operation upon such basis, shall have his production allotments, as determined without the benefit of this paragraph, increased by 10 per cent. If only part of his raw material supply comes from such sustained yield operation, his increased allotment shall be that proportion of 10 per cent which the volume of his raw material coming from such sustained yield operation is of his total volume. Sustained yield forest management is defined in Section 2 (g) of Schedule C. The additional production allotments provided for in this paragraph shall come from the total national production quota.”

Approved Code No. 9. Amendment No. 5.
Registry No. 313-1-06.

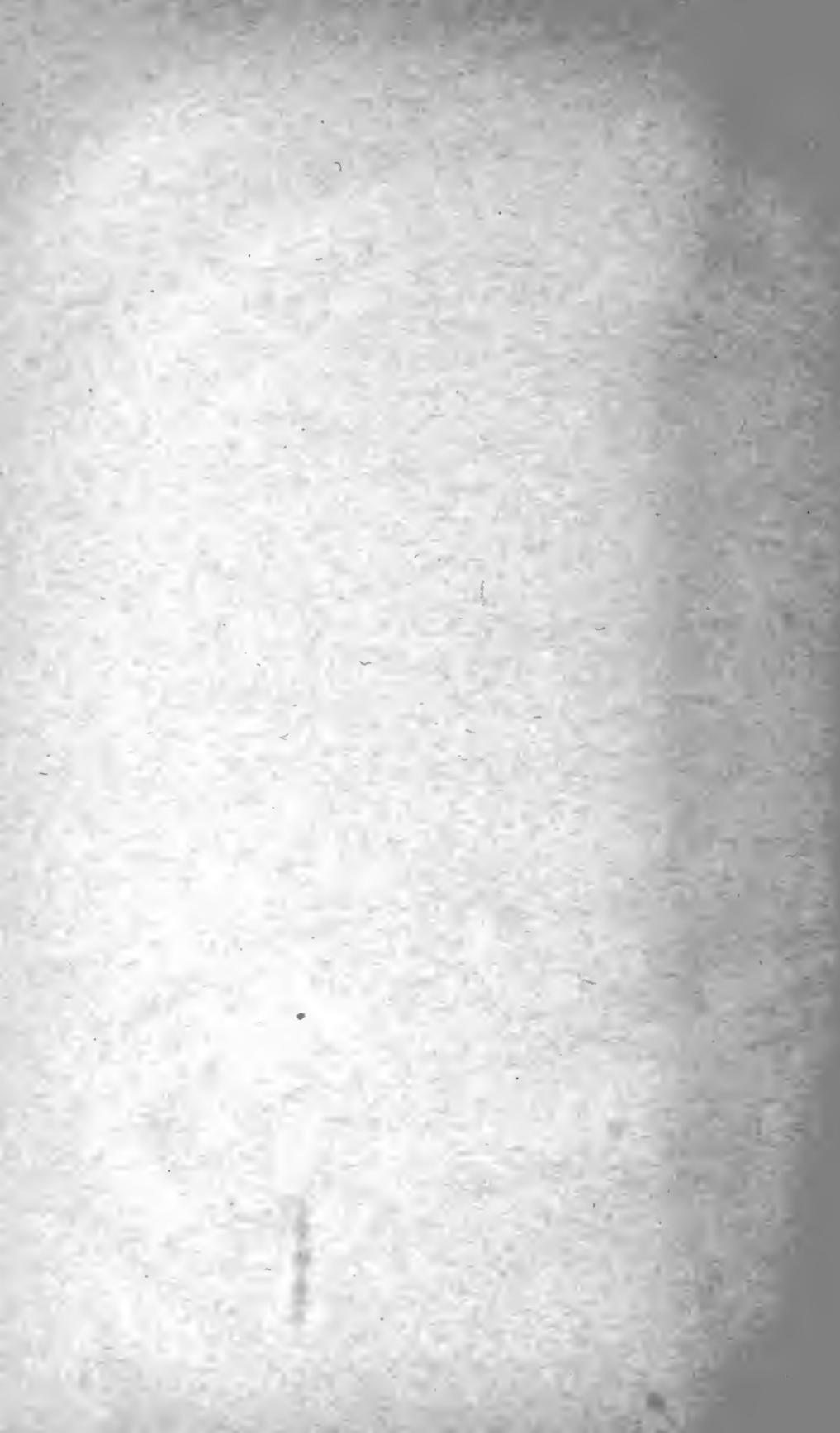














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